

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESale PRICE)	
LITIGATION)	MDL No. 1456
)	Civil Action No. 01-12257-PBS
_____)	
)	Hon. Patti B. Saris
THIS DOCUMENT RELATES TO:)	
)	Magistrate Judge Marianne B.
<i>United States of America, ex rel. Ven-a-Care</i>)	Bowler
<i>of the Florida Keys, Inc. v. Abbott</i>)	
<i>Laboratories, Inc.,</i>)	
CIVIL ACTION NO. 06-CV-1337-PBS)	

EXHIBIT A
to

RELATORS' MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION TO COMPEL ABBOTT LABORATORIES, INC TO
PRODUCE OR CONSENT TO ACCESS TO AND SHARING OF ALL
DISCOVERY PRODUCED BY ABBOTT IN OTHER FALSE PRICE
REPORT LITIGATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:)
PHARMACEUTICAL INDUSTRY) CA No. 01-12257-PBS
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Pages 1 - 49

MOTION HEARING

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
February 27, 2007, 10:10 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 3205
Boston, MA 02210
(617)345-6787

1 A P P E A R A N C E S:

2 For the Plaintiffs:

3 RENE' BROOKER, ESQ. and GEJAA T. GOBENA, ESQ., United
4 States Department of Justice, Civil Division, Commercial
Litigation, Fraud, 601 D Street, N.W., Washington, D.C.,
20004.

5
6 JAMES J. BREEN, ESQ., 3562 Old Milton Parkway,
Alpharetta, Georgia, 30005, for the Relator, Ven-A-Care of
the Florida Keys.

7
8 For the Defendants:

9 JAMES R. DALY, ESQ., Jones Day,
10 77 West Wacker, Chicago, Illinois, 60601-1692, for Abbott
Laboratories.

1 Otherwise you're going to submit them in camera to me or
2 Magistrate -- is Judge Bowler involved in this case?

3 MR. DALY: Yes.

4 THE COURT: And if you win on the fifty documents
5 apiece you choose, I'm just going to say "Produce the CD."
6 So, in other words, if you're not being reasonable about
7 this, you're just going to lose. I'm not going to look at
8 millions of documents.

9 MR. BREEN: And, your Honor, may I just add one
10 request?

11 THE COURT: Yes.

12 MR. BREEN: Because understand that these documents
13 are subject to the Texas protective order. I can see them, I
14 can use them, but I cannot show them to my co- --

15 THE COURT: I understand you can.

16 MR. BREEN: But hold on, your Honor. Mr. Daly has
17 got to consent to my showing them to your Honor in camera,
18 and I just need their consent.

19 MR. DALY: I consent, your Honor.

20 MR. BREEN: And I've asked that before and have not
21 gotten an answer yet. That's the first time I got that
22 answer.

23 THE COURT: And it may be, just out of respect to
24 the Texas court, you may need to sort of file some sort of
25 a --

1 MR. BREEN: Not without his consent, Judge. And
2 that's the critical point. All he has to do is say
3 "I consent" and --

4 THE COURT: So he's consented. So what you need to
5 do is just -- I can't rule off the cuff on this. That's
6 going to be impossible. What you need to do is, you have
7 three categories you've very neatly, succinctly set out. You
8 show him representative documents from -- you've seen them --
9 from each of those categories by yourself as intervenor. You
10 try and confer and see what you can work out. If you can't,
11 come up with a timetable, briefing timetable, motion to
12 compel, response. You probably need to file it under seal,
13 right?

14 MR. DALY: I think that's probably appropriate,
15 Judge.

16 THE COURT: And I'll either refer it to
17 Judge Bowler or take it myself, likely refer to
18 Judge Bowler. And because neither Judge Bowler nor I with
19 all these cases have time to go through a million documents
20 apiece, I'll look at the representative ones; and if you win
21 most of them, I'll just say "Turn over the CD." If you only
22 win a small fraction and I think you're overreaching, I'm
23 just going to say "Denied." So it's in everybody's interest
24 to try and work this out. Take your best documents.

25 MR. BREEN: But, your Honor, we will do that